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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LAYNO, BENJAMIN

ART UNIT PAPER NUMBER

3712

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,683

Applicant(s)

VILYAMOVICH, YARINICH
MIKHAIL

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 092704.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suttle et al. in view of Wood et al.

The patent to Suttle et al. discloses many of the steps recited in claim 1, see columns 3 and 4. Suttle et al. discloses that five cards are initially distributed face down to each player and the dealer, col. 3, lines 11-14. Cards dealt to the player face down gives the perception of a house advantage, while cards dealt to the player face up gives the perception of a player advantage. Determining exactly whether to deal to the player five cards face down or five cards face up would have simply been a casino business decision that is always obvious in the art.

Suttle et al. further discloses that the dealer is initially distributed five cards, four cards face down and one face up, col. 3, lines 13-14, and that after the player makes a decision, whether to forfeit or continue the game by placing a second stake, the dealer's four face down cards are turned face up, col. 3, lines 49-50. The Examiner takes the position that Suttle's steps of dealing of one face up card to the dealer and dealing four face down cards to the dealer, then after the player makes a decision, the dealer turning over of the dealer's four face down cards, **are equivalent to**, the claimed steps of

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dealing of one card face up to the dealer, then after the player makes a decision, the dealer dealing four face up cards to the dealer. Note, in both circumstances, before the player makes a decision, the values of the dealer's four face down cards in Suttle are unknown, and the values of the four cards yet to be dealt to the dealer in the claimed invention are also unknown.

The patent to Wood et al. discloses that it is known to use at least two packs (five decks) of cards, in poker games. Each pack having 52 cards. The introduction of at least two packs creates more poker rank combination having higher payoffs (e.g. five Ace of Spades, etc.), see col. 5, lines 19-27 and see Table 2. In view of such teaching, it would have been obvious to a person having ordinary skill in the art to incorporate an additional pack of cards to Suttle's poker game in order to create additional poker rank combinations having higher payoffs.

In regard to claim 3, determining exactly what combinations are to be assigned as winning poker ranking combinations is simply a casino business decision that is always obvious in the art.

Concerning claim 6, determining exactly how many packs of cards to use (e.g. five packs, six packs, etc.) is also simply a casino business decision that is always obvious in the art. Clearly, the more packs that are used, the more poker ranking combinations can be created.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suttle et al. in view of Wood et al. as applied to claim 1 above, and further in view of Wirth.

The patent to Wirth teaches that it is known in poker games to give a player an opportunity to improve his five-card hand by providing an option to place a stake on zone 15 in order to buy a sixth card, col. 4, lines 47-65. In view of such teaching, it would have been obvious to incorporate a rule to Suttle's game allowing a player to improve his five-card hand by providing an option to place a stake in order to buy a sixth card. This modification would have made Suttle's game more exciting to play.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 recites the limitation "the appropriate predetermined rate" in lines 5-6.

There is insufficient antecedent basis for this limitation in the claim. This limitation is also indefinite. The claim must described in more detail the appropriate predetermined rate.

Allowable Subject Matter

6. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The patents to Goldman and Perkins disclose poker games allowing players to place insurance wagers. The patent Weingardt discloses a poker game that uses multiple decks of cards. None of the cited references alone or in combination teach the claimed steps of "placing by the player a stake insurance, that the dealer having a

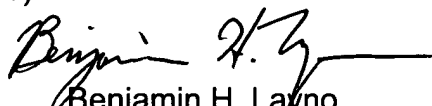
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combination of cards lower than the necessary minimum combination for continuation of the game, wherein at step (g), if the dealer does not have the minimum game combination, the dealer paying the first stake and the stake insurance at the appropriate predetermined rate".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl